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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,330	11/14/2003	Bradley L. Busscher	GEN10 P-401A	2737
28469	7590	07/22/2004	EXAMINER	
PRICE, HENEVELD, COOPER, DEWITT, & LITTON, LLP/GENTEX CORPORATION 695 KENMOOR, S.E. P O BOX 2567 GRAND RAPIDS, MI 49501			SPECTOR, DAVID N	
		ART UNIT	PAPER NUMBER	2873
DATE MAILED: 07/22/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/714,330	BUSSCHER ET AL. <i>[Handwritten mark]</i>
	<b>Examiner</b>	<b>Art Unit</b>
	David N. Spector	2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 06/29/2004.  
 2a) This action is **FINAL**.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2-36 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 2-36 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 11/14/2003 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>0404/26; 0604/29</u> . | 6) <input checked="" type="checkbox"/> Other: <u>DETAILED ACTION</u> .                  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. **Claims (new) 2-9 and 14-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.** The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. More specifically, the terms "mirror element" (Claim 2, Line 2; Claim 29, Line 2) and "reflective element" (Claim 14, Lines 1-2; Claim 19, Lines 1-2; Claims 24, Lines 1-2) recited in each of the newly-added independent claims 2, 14, 19, 24, and 29 do not appear anywhere in the instant specification. Similarly, the aforesaid terms do not appear anywhere in the parent application for the instant case (Serial No. 09/862,414; filed 5/21/2001; now U.S. Patent No. 6,650,457). Claims 2-36 therefore fail to comply with the enablement requirement.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claim (new) 11 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** Claim 11 recites the limitation "a panel" in the second line of the claim. There is insufficient antecedent basis for this limitation in the claim.

5. **Claims (new) 19-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject**

**matter which applicant regards as the invention.** Here, independent claim 19 recites the limitation "the member comprising" in the second line of the claim. There is insufficient antecedent basis for this limitation in the claim. Claim 19 is therefore rendered indefinite along with claims 20-23 which depend from claim 19.

6. **Claims (new) 24-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.** Here, independent claim 24 recites the limitation "the member comprising" in the third line of the claim. There is insufficient antecedent basis for this limitation in the claim. Claim 24 is therefore rendered indefinite along with claims 25-28 which depend from claim 24.

#### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. **Claims 2-5, 7-10, 12-14, 29-32, and 34-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Bulgajewski et al. (U.S. Patent No 6,426,485).**

In regard to independent claim 2 Bulgajewski et al. discloses an exterior rearview mirror assembly (**FIG. 1, ref. 10**) comprising: a mirror element **16** having a front surface **20** and a rear surface **18** (col. 5, ln. 19-21), the mirror element **16** having a portion allowing light to pass therethrough (col. 5, ln. 36-38); a member **52** located adjacent the rear surface **18** of the mirror element (col. 6, ln. 1-9), the member **52** including an area **56** aligned with the portion of the mirror element (col. 6, ln. 13-17); and a light source **36** emitting light, the light being directed at the area **56**; the area **56** of the member **52** and the portion of the mirror element **16** allowing light from the light source **36** to pass therethrough (col. 5, ln.30-34), wherein the area **56** includes a diffuser (col. 6, ln. 18-20) to diffuse

Art Unit: 2873

light passing through the element (col. 6, ln. 20-25). Claim 2 is therefore anticipated by Bulgajewski et al.

In regard to claim 3 Bulgajewski et al. discloses an exterior rearview mirror assembly (**FIG. 1**, ref. **10**) comensurate with independent claim 2 from which claim 3 depends; wherein the mirror element **16** comprises an electrochromic mirror subassembly (col. 5, ln. 15-18) which, in the case of an electrochromic rearview mirror, inherently includes a front glass element and a rear glass element, with electrochromic material located between the front glass element and the rear glass element. Claim 2 is therefore anticipated by Bulgajewski et al.

In regard to claim 4 Bulgajewski et al. discloses an exterior rearview mirror assembly (**FIG. 1**, ref. **10**) comensurate with independent claim 2 from which claim 4 depends; wherein the light source **36** comprises a LED (col. 5, ln. 41-42). Claim 4 is therefore anticipated by Bulgajewski et al.

In regard to claim 5 Bulgajewski et al. discloses an exterior rearview mirror assembly (**FIG. 1**, ref. **10**) comensurate with independent claim 2 from which claim 5 depends; wherein the diffuser is directly applied to the member **52** (col. 6, ln. 18-20). Claim 5 is therefore anticipated by Bulgajewski et al.

In regard to claim 7 Bulgajewski et al. discloses an exterior rearview mirror assembly (**FIG. 1**, ref. **10**) comensurate with independent claim 2 from which claim 7 depends; wherein the diffuser is applied to a surface of the member **52** in the area **56** (col. 6, ln. 18-20). Claim 7 is therefore anticipated by Bulgajewski et al.

In regard to claim 8 Bulgajewski et al. discloses an exterior rearview mirror assembly (**FIG. 1**, ref. **10**) comensurate with claim 7 from which claim 8 depends; wherein the diffuser comprises a roughening (e.g. etching) of the surface (col. 6, ln. 27-28). Claim 8 is therefore anticipated by Bulgajewski et al.

In regard to claim 9 Bulgajewski et al. discloses an exterior rearview mirror assembly (**FIG. 1**, ref. **10**) comensurate with independent claim 2 from which claim 9 depends;

wherein the light source **36** directs the light at the portion of the mirror element **16** (col. 2, ln. 60-64). Claim 9 is therefore anticipated by Bulgajewski et al.

In regard to independent claim 10 Bulgajewski et al. discloses an exterior rearview mirror assembly which implicitly, and by example, teaches method of assembling an exterior rearview mirror assembly comprising: [a step for] providing a member **52** having an area **56** adapted to allow light to pass therethrough (col. 5, ln.30-34); and treating the area of the member **52** to diffuse the light passing through the member **52** (col. 6, ln. 20-25). Claim 10 is therefore anticipated by Bulgajewski et al.

In regard to claim 12 Bulgajewski et al. discloses a method of assembling an exterior rearview mirror assembly (**FIG. 1, ref. 10**) comensurate with claim 10 from which claim 12 depends; wherein treating comprises treating a surface of the member **52** in the area **56** (col. 6, ln. 18-20). Claim 12 is therefore anticipated by Bulgajewski et al.

In regard to claim 13 Bulgajewski et al. discloses a method of assembling an exterior rearview mirror assembly (**FIG. 1, ref. 10**) comensurate with claim 12 from which claim 13 depends; wherein treating comprises roughening (e.g. etching) the surface. (col. 6, ln. 27-28). Claim 13 is therefore anticipated by Bulgajewski et al.

In regard to independent claim 14 Bulgajewski et al. discloses an apparatus (**FIG. 1, ref. 10**) for an exterior vehicle mirror assembly including a reflective element **16** having inner **18** and outer **20** surfaces (col. 5, ln. 19-21) and a light source **36** positioned to direct light toward the inner surface **18** of the reflective element **16**, the apparatus **10** comprising: a member **52** (e.g. a nonconductive substrate) extending between the inner surface **18** of the reflective element **16** and the light source **36**, the member **52** including an area **56** adapted to allow light from the light source **36** to pass therethrough (col. 5, ln. 30-34); and a light diffuser (col. 6, ln. 18-20) positioned over the area **56** of the member **52** to diffuse light passing through the element **16** (col. 6, ln. 20-25). Claim 14 is therefore anticipated by Bulgajewski et al.

In regard to independent claim 29 Bulgajewski et al. discloses an exterior rearview mirror assembly (**FIG. 1, ref. 10**) for a vehicle comprising: a mirror element **16** (col. 5, ln. 19-21), a heater **50** positioned relative to the mirror element for heating the mirror ele-

ment **16** (col. 5, ln.53-56), the heater **50** (e.g. disposed on member/substrate **52**) including an area **56** for letting light pass therethrough (col. 5, ln.30-34), and a light source **36** emitting light, the light being directed at the area **56** (col. 6, ln. 14-17); the area diffusing the light so that the light passing therethrough is uniformly distributed (col. 6, ln. 20-25). Claim 29 is therefore anticipated by Bulgajewski et al.

In regard to claim 30 Bulgajewski et al. discloses an exterior rearview mirror assembly (**FIG. 1, ref. 10**) comensurate with independent claim 29 from which claim 30 depends; wherein the mirror element **16** comprises an electrochromic mirror subassembly (col. 5, ln. 15-18) which, in the case of an electrochromic rearview mirror, inherently includes a front glass element and a rear glass element, with electrochromic material located between the front glass element and the rear glass element. Claim 2 is therefore anticipated by Bulgajewski et al.

In regard to claim 31 Bulgajewski et al. discloses an exterior rearview mirror assembly (**FIG. 1, ref. 10**) comensurate with claim 30 from which claim 31 depends; wherein the light source **36** comprises a LED (col. 5, ln. 41-42). Claim 31 is therefore anticipated by Bulgajewski et al.

In regard to claim 32 Bulgajewski et al. discloses an exterior rearview mirror assembly (**FIG. 1, ref. 10**) comensurate with independent claim 29 from which claim 32 depends; wherein the area **56** comprises a diffuser directly applied to the area **56** (col. 6, ln. 18-20). Claim 32 is therefore anticipated by Bulgajewski et al.

In regard to claim 34 Bulgajewski et al. discloses an exterior rearview mirror assembly (**FIG. 1, ref. 10**) comensurate with independent claim 29 from which claim 34 depends; wherein the area **56** comprises a diffuser applied to a surface of the member **52** in the area **56** (col. 6, ln. 18-20). Claim 34 is therefore anticipated by Bulgajewski et al.

In regard to claim 35 Bulgajewski et al. discloses an exterior rearview mirror assembly (**FIG. 1, ref. 10**) comensurate with claim 34 from which claim 35 depends; wherein the diffuser comprises roughening (e.g. etching) the surface. (col. 6, ln. 27-28). Claim 35 is therefore anticipated by Bulgajewski et al.

In regard to claim 36 Bulgajewski et al. discloses an exterior rearview mirror assembly (**FIG. 1, ref. 10**) comensurate with independent claim 29 from which claim 35 depends; wherein the light source **36** directs the light at the portion of the mirror element **16** (col. 2, ln. 60-64). Claim 36 is therefore anticipated by Bulgajewski et al.

***Other Remarks/Information***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David N. Spector whose telephone number is (571) 272-2338. The examiner can normally be reached at this number Monday through Friday between 6:00 AM and 2:30 PM. The fax number for the organization where this application is assigned is (703) 872-9306.

July 21, 2004



DAVID N. SPECTOR  
PRIMARY EXAMINER